

REMARKS

Summary of the Claims

With the present Office Action, claims 1-24 were pending in the application and claims 1-24 were rejected. Claims 2-4, 6, 8-10, 12-18, 20-22, and 24 were canceled and claims 1, 5, 7, 11, 19, and 23 were amended. The Applicants respectfully submit that no new matter has been added by the amendments. With entry of these amendments, claims 1, 5, 7, 11, 19, and 23 will be pending in the application.

Rejections under 35 U.S.C. § 102

Claims 1, 2, 7, 8, 13, 14, 19, and 20 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. App. Pub. No. 2002/0198629 to *Ellis*. Claims 2, 8, 13, 14, and 20 have been canceled rendering the rejections thereto moot. The Applicants respectfully traverse the remaining rejections.

The examiner has maintained the original rejection stating that the Applicants' arguments were not persuasive. In addition, the examiner contends that "[t]he Examiner interprets each interval [in *Ellis*] description of utility meters querying or polling meters for information at a periodic interval corresponding to the billing interval] to be within a billing cycle and therefore is equivalent to a billing cycle event."¹ The Applicants' respectfully submit that claims must be "given their broadest reasonable interpretation consistent with the specification."² In remanding a decision for reconsideration, the Federal Circuit recently reminded the Patent Office that "[a]lthough claims during examination are given their broadest reasonable interpretation in order to facilitate precision in claiming, **that interpretation must be** 'consistent with the specification.'"³ The Federal Circuit continued by reminding the Patent Office that "claim language should be

¹ Office Action, page 5.

² *M.P.E.P.* § 2111.

³ *In re Wheeler*, 2008-1215 (Serial No. 10/899,352)(Fed. Cir. December 19, 2008) (citing *In re Bond*, 910 F.2d 831, 833 (Fed. Cir. 1990))(emphasis added); see also *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) ("[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question.").

read in light of the specification as it would be interpreted by one of ordinary skill in the art.”⁴ Likewise, in the present application, the examiner has improperly imported elements of *Ellis* in an attempt to redefine various claim features.

Nonetheless, in an attempt to move prosecution forward towards an allowance, independent claims 1, 7, and 19 have been amended to further clarify the present invention. Specifically, the claim features of the billing schedule, the billing cycle, and the billing cycle events are further clarified according to the definitions provided in the specification at paragraph 0035, for example.

Rejections Under 35 U.S.C. § 103

Claims 3-6, 9-12, 15-18, and 21-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ellis* in view of U.S. Pat. No. 5,517,555 to *Amadon et al.* Claims 3, 4, 6, 9, 10, 12, 15-18, 21, 22, and 24 have been canceled rendering the rejections thereto moot. The Applicants traverse the remaining rejections.

None of the applied references, either individually, or in any hypothetical combination with one another, teaches each feature of the amended claims 5, 1, and 23.

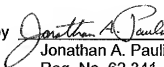
Conclusion

It is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. Should any new concerns arise, Examiner Champagne is urged to please initiate a telephone interview with the undersigned representative to expedite prosecution of the present application.

No fee is believed due with the filing of this paper. The Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 50-3447.

⁴ *Id.*

Respectfully Submitted,
PARKS KNOWLTON LLC

by 
Jonathan A. Paulis
Reg. No. 62,341
Agent for the Applicant

1117 Perimeter Center West
Suite E402
Atlanta, GA 30338

Tel.: (678) 325-6601
Fax: (678) 325-6605